

Timothy A. Williams appeals his burglary and robbery convictions. Williams argues his convictions should be set aside because the State failed to prove the victim, Percy Lipscomb, identified the intruder as Williams and because Lipscomb was not injured.

We affirm.

FACTS AND PROCEDURAL HISTORY

On the afternoon of May 22, 2005, Lipscomb returned to his house after being hospitalized for six weeks for back treatment. When Lipscomb arrived home, he found Renee Armstrong, his girlfriend's sister, at the residence. He asked her to leave, but Armstrong stayed and Williams came over to visit. While Williams and Armstrong visited in the kitchen, Lipscomb watched television in his bedroom. Later, Lipscomb again asked Armstrong to leave, but she did not. He took his prescribed back pain medication, Oxycodone.

That evening while his nephew, Ira Sims, was present, Lipscomb insisted that Armstrong leave, and she did. Sims left the house shortly thereafter. Lipscomb left the lights on and the front door unlocked. He then fell asleep in a large chair in the bedroom near the front door. Lipscomb awoke to a noise, saw the house was dark, and asked who was there. Suddenly, a blanket flew over Lipscomb's head from behind him. Lipscomb threw the blanket off and it returned. Williams twice stated "give me the money." (Tr. at 119.) Lipscomb denied having any money, and Williams reached into the chair where Lipscomb normally kept his wallet.

Lipscomb fought to remove the blanket. Williams attempted to wrap a cord around Lipscomb's head to secure the blanket, and he hit Lipscomb in the head three times with a closed fist. Then Williams ordered Lipscomb to be still because he had a gun. Lipscomb complied. Williams knocked some items off the television, stated "this will do," (*id.* at 121), and walked out the front door with Lipscomb's television. Lipscomb removed the blanket and saw Williams, illuminated by a streetlight, wearing a short brown coat and hat. He did not see Williams' face. Lipscomb called 911 to report he had been robbed and beaten.

Officer Brick, who was the first officer to arrive, entered the residence and found Lipscomb upset and lying on the floor. Officer Severns approached Lipscomb's residence driving slowly with his lights off. He saw Williams, wearing a brown coat and hat, five or six houses from Lipscomb's residence. When Williams saw Officer Severns, he ran the other way. Officer Severns stopped Williams and noticed he was out of breath and sweating profusely, despite the cool temperature.

A few minutes later, Officer Brick approached Officer Severns's location by walking behind the houses where Williams had walked. Through the open door to the garage of a nearby residence, Officer Brick noticed a black television on the trunk of a car. The officers took Williams to Lipscomb's residence, and Lipscomb identified Williams as the man who had been in his residence earlier with Armstrong and who had stolen the television. Lipscomb also identified the recovered television as his.

The State charged Williams with Class B felony burglary¹ and Class B felony robbery.² The jury found Williams guilty of both charges.

DISCUSSION AND DECISION

The standard of review when considering the sufficiency of evidence is well settled. We will not reweigh the evidence or judge the credibility of the witnesses. *Battle v. State*, 818 N.E.2d 56, 58 (Ind. Ct. App. 2004). Rather, we look to the evidence most favorable to the verdict and the reasonable inferences to be drawn therefrom. *Id.* We will affirm the conviction if there is probative evidence from which a jury could have found the defendant guilty beyond a reasonable doubt. *Id.*

1. Burglary

To support Williams' Class B felony burglary conviction the State had to prove Williams broke into and entered Lipscomb's dwelling with the intent to commit a felony therein. Ind. Code § 35-43-2-1. The State alleged Williams intended to commit felony robbery in Lipscomb's house.

Williams contends Lipscomb was unable to identify him because Lipscomb's residence was completely dark and Lipscomb did not see his face.

Williams was in Lipscomb's residence earlier that day. After he was robbed, Lipscomb saw Williams, illuminated by a streetlight, wearing a brown coat and hat. Within minutes of the occurrence, Officer Severns saw Williams, who was five or six houses from Lipscomb's residence, turn and run from him. Officer Severns noticed

¹ Ind. Code § 35-43-2-1.

² Ind. Code § 35-42-5-1.

Williams was out of breath and sweating profusely, despite cool temperatures. Officer Brick asked Lipscomb if he recognized the man in the police car, and he identified Williams. Testimony from the sole eyewitness is sufficient to sustain a conviction. *Williams v. State*, 741 N.E.2d 1209, 1213 (Ind. 2001). We find the evidence sufficient to sustain Williams' burglary conviction.

2. Robbery

To support a Class B felony robbery conviction the State had to prove Williams knowingly took property from Lipscomb, in a manner that resulted in bodily injury to Lipscomb. Ind. Code § 35-42-5-1. Bodily injury includes physical pain. Ind. Code § 35-41-1-4.

Williams argues Lipscomb did not feel pain because Lipscomb had taken pain medication earlier that evening. Williams also argues there was insufficient evidence to prove he took Lipscomb's property because Williams was not in possession of the television.

The jury could reasonably infer Lipscomb felt pain when Williams hit him in the head three times with a clenched fist. When Williams, who was breathing heavily and was sweaty, attempted to run from Officer Severns, he was near the garage where Officer Brick found the television. The evidence is sufficient to sustain Williams' robbery conviction.

Affirmed.

NAJAM, J., and MATHIAS, J., concur.